

Program Guidance – Fair Inclusion of Women and Minorities in the Workforce

Section 342(c)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 requires contractors of the Federal Deposit Insurance Corporation to ensure, to the maximum extent possible, the fair inclusion of women and minorities in the workforce of the contractor and, as applicable, subcontractors. To this end, solicitations for FDIC contract awards over \$100,000, will contain a provision for prospective contractors to certify that it is committed to equal opportunity in employment and contracting, and that it has made and will continue to make or will make during the course of the contract, a good faith effort to ensure the fair inclusion of women and minorities in its workforce and in the workforce of applicable subcontractors. (Provision 7.3.2-53 – Certification Regarding Fair Inclusion of Women and Minorities.)

The Importance of the Inclusion of Women and Minorities to Business

The hiring of women and minorities is a strategic business imperative. Here are some of the key business benefits:

Serving a Diverse Population

As women and minorities become decision makers, both in business-to-business and business-to-consumer, it becomes vital to have people who can represent those markets on your teams.

Work Force Utilization

Employers will get the maximum productivity out of all of your employees.

Employer of Choice

To stay competitive, it is important to get the best talent. Women and minorities look for employers where they can be successful and, as a result, it is vital to be the employer of choice.

Creativity & Innovation

To come up with new solutions requires different points of view. Including women and minorities on your teams will help to create new ideas to keep your business competitive.

Good Faith Effort to Include Women and Minorities in the Workforce

FDIC has defined “good faith effort” as actions by the contractor intended to identify and, if present, remove barriers to women and minorities within its workforce or expand employment opportunities for women and minorities within its workforce. Efforts to remove such barriers or expand employment opportunities may include, but are not limited to, recruiting women and minorities, providing job-related training, or other activity that could lead to those results.

FDIC contractors must certify to its commitment to ensuring equal opportunity in employment and contracting upon award of a contract over \$100,000 and annually during the contract period if more than 12 months.

Evidence of a Contractor's Good Faith Effort

The FDIC, through the Contracting Officer, may request a copy of a contractor's plan and evidence of completed actions to demonstrate good faith effort. This information may include, but is not limited to:

1. The total number of the contractor's employees, and the number of minority and women employees by race, ethnicity, and gender (e.g., EEO-1 report);
2. A list of subcontract awards under the contract that includes: dollar amount, date of award, and subcontractor's minority and/or gender ownership status;
3. Information similar to that required in item 1 above with respect to each subcontractor with a subcontract value that exceeds \$100,000; and/or
4. The contractor's plan to ensure that minorities and women have appropriate opportunities to enter and advance within its workforce, including outreach efforts.

Barrier Identification and Elimination

Barrier identification and elimination is the process by which an employer can uncover, examine and remove barriers to equal participation at all levels of the workforce. A barrier can be a policy, principle or practice that limits or tends to limit employment opportunities for members of a particular race, national origin or gender group. Barrier removal is vital to assuring equal opportunity to employment; thus, an employer should work to create a barrier-free work environment where qualified applicants and employees have the freedom to compete and participate to the fullest extent possible, at all levels within the workforce. The use of barrier analysis will assist vendors in recruiting, hiring, developing, and retaining a high-performing workforce that draws upon the greatest talent pool.

An example of a barrier might be that a company only hires people through word of mouth. That would mean that if a highly qualified minority or woman candidate were not connected socially or professionally with current employees, they would be unlikely to have an opportunity to apply for a position. Barriers like this can be overcome with some of the strategies in the next section.

Getting Started

As a contractor with the FDIC, you may understand why inclusion of women and minorities in the workplace are important, but also wonder how to get started with the process. Here are a few different areas where you can focus your efforts to have the greatest impact:

- Broadening outreach activities to target recruitment of minorities and women
- Developing and implementing strategies to retain employees - Creating an Inclusive Workplace

Broadening Outreach Activities to Target Recruitment of Women and Minorities

The landscape of the US workforce is changing, and women and minorities comprise an ever-growing proportion of the US talent pool. As a result, whether your organization has 50 people or 500 people, to get the best people to work, it is important to have a strategy that ensures effective outreach to qualified women and minorities. Strategies you can use include:

- Forming relationships with diverse organizations such as the National Black MBA Association, Hispanic Bar Association, Women in IT, Asian American Chamber of Commerce, and with educational institutions with significant populations of women and minority students.
- Highlighting on your website, in social media and in your marketing materials that you are an equal opportunity employer and that you value diversity.
- Expanding your job postings to the widest range of potential applicants, including places where you might reach qualified women and minorities.
- Attending job and career fairs that reach qualified women and minority candidates.
- Training interview and hiring panels on methodologies to recognize and eliminate bias in the interview and selection process to ensure that women and minorities have an opportunity to compete on a level playing field.

Developing and Implementing Strategies to Retain Employees - Creating an Inclusive Workplace

The objective of inclusion is to create an environment where every employee, including women and minorities, has an equitable opportunity to achieve personal success and contribute to the organization's success. As an organization becomes more inclusive of employees with different backgrounds, it becomes vital to ensure that they are able to become a part of the mainstream. The following strategies are ones that can be taken to retain employees.

1. Providing career development opportunities to give employees an opportunity to grow within the company and to stay marketable in their field.
2. Providing mentoring and coaching programs to engage and provide informal guidance and feedback to employees to help guide them and serve as a resource.

3. Supporting employee resource groups to facilitate employee engagement, networking, and personal development.
4. Supporting career/work life balance with flexible work schedules, tele-work, wellness programs, etc.
5. Promoting an inclusive work environment by ensuring employees have an opportunity to contribute directly to the organization, and effectively communicating the company's diversity and inclusion policy to all employees.

Applicability to Subcontractors

The Fair Inclusion Clause (7.6.4-04) applies to applicable subcontractors. Subcontractors with contract awards over \$100,000 must also make good faith efforts to include women and minorities in their workforces. Prime contractors are responsible for affirming that their applicable subcontractors have made a good faith effort to ensure, to the maximum extent possible, the fair inclusion of women and minorities in their workforces. Subcontractors can follow the same or similar diversity and inclusion strategies as identified above to demonstrate their good faith.

Technical Assistance with Adhering to the Fair Inclusion Clause

The FDIC has developed a collaborative process to review and assess whether contractors are responsive to the Fair Inclusion Clause. First, the process allows for reviewing and verifying the contractor's certification response and communicating with the contractor. This involves ensuring there is a positive response to the question and reviewing available documentation depicting the contractor's workforce and the existing representation of women and minorities; e.g., the EEO-1 Report. Second, if there is a negative response to the question and/or available documentation about the contractor's workforce is inconclusive, the FDIC may open discussions, through the Contracting Officer, for contractors to present information or otherwise clarify its good faith efforts and to resolve any questions or outstanding issues. The FDIC is committed to assisting its contractors in meeting the requirements of the Fair Inclusion Clause and realizes its primary interest is in the performance of the contract. After exhaustive unsuccessful attempts to assist a contractor in making good faith efforts to include women and minorities in its workforce however, the FDIC may make a recommendation to take appropriate action, including but not limited to, making a referral to the Office of Federal Contract Compliance Programs of the Department of Labor or terminating the contract.

The FDIC's Office of Minority and Women Inclusion can be called upon to share experience, advice and assistance to help the success of a contractor's diversity and inclusion efforts. Feel free to contact OMWI for advice or assistance.